



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

TJR

Docket No: 5460-99

28 February 2000

[REDACTED]

Dear [REDACTED]:

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, United States Code, Section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 15 February 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record, and applicable statutes, regulations, and policies.

After careful and conscientious consideration of the entire record, the Board found the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found you enlisted in the Navy on 6 July 1977 at the age of 19. Your record shows that you served for nearly two years without incident, but during the period from 16 March 1979 to 9 January 1980 you received nonjudicial punishment (NJP) on four occasions for dereliction in the performance of your duties, three periods of unauthorized absence totalling 15 days, three incidents of disobedience, and failure to go to your appointed place of duty. On 27 June 1980 you were convicted by civil authorities of robbery and use of a deadly/dangerous weapon. You were sentenced to three years probation, confinement for nine months, and counselling.

Your record also reflects that on 16 July 1980 you received your fifth NJP for two incidents of failure to go to your appointed place of duty. The punishment imposed was forfeitures totalling \$100 and extra duty for 14 days. The forfeitures were suspended for six months. Approximately four months later, on 18 November 1980, you were notified of a pending recommendation for an administrative separation by reason of misconduct due to civil conviction. Subsequently, the discharge authority directed your

commanding officer to issue you an other than honorable discharge by reason of misconduct due to civil conviction, and on 22 January 1981 you were so discharged.

The Board, in its review of entire record and your application, carefully weighed all potentially mitigating factors, such as your youth and immaturity and your contention that you would like your discharge upgraded so that you may receive military benefits/assistance and become a productive and positive member of society. The Board further considered your contentions that you had only nine remaining months to serve, were promoted to paygrade E-3, and did not have any military in fractions. However, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge given the serious nature of your frequent misconduct which resulted in five NJPs and conviction by civil authorities. Given all the circumstances of your case, the Board concluded your discharge was proper and no change is warranted. Accordingly, your application has been denied.

The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director